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**Datasheet for the decision
of 22 September 2025**

Case Number: T 2036/23 - 3.3.04

Application Number: 19192679.9

Publication Number: 3626258

IPC: A61K38/47, A61P25/00,
A61P25/28, A61K9/19, A61K38/46

Language of the proceedings: EN

Title of invention:

Methods and compositions for CNS delivery of iduronate-2-sulfatase

Patent Proprietor:

Takeda Pharmaceutical Company Limited

Opponent:

Green Cross Corporation

Headword:

CNS DELIVERY OF IDURONATE-2-SULFATASE/TAKEDA

Relevant legal provisions:

EPC Art. 113(2)

Keyword:

Basis of decision - text or agreement to text withdrawn by
patent proprietor - patent revoked

Decisions cited:

T 0073/84



Beschwerdekammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
European Patent Office
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Case Number: T 2036/23 - 3.3.04

D E C I S I O N
of Technical Board of Appeal 3.3.04
of 22 September 2025

Appellant I: Takeda Pharmaceutical Company Limited
(Patent Proprietor) 1-1, Doshomachi 4-chome
Chuo-ku
Osaka-shi, Osaka (JP)

Representative: Carpmaels & Ransford LLP
One Southampton Row
London WC1B 5HA (GB)

Appellant II: Green Cross Corporation
(Opponent) 107 Ihyeon-ro 30-beongil
Giheung-gu, Yongin-si
Gyeonggi-do (KR)

Representative: HGF
HGF Limited
1 City Walk
Leeds LS11 9DX (GB)

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
20 October 2023 concerning maintenance of the
European Patent No. 3626258 in amended form.**

Composition of the Board:

Chairwoman M. Pregetter
Members: O. Lechner
M. Blasi

Summary of Facts and Submissions

- I. The patent proprietor and the opponent filed an appeal against the opposition division's interlocutory decision that account being taken of the amendments made by the patent proprietor during the opposition proceedings, the patent EP 3 626 258 and the invention to which it relates met the requirements of the EPC. Both parties will be referred to according to their role in the opposition proceedings.
- II. The board appointed oral proceedings, and in a subsequent communication of the Board of Appeal pursuant to Article 15(1) of the RPBA provided its preliminary appreciation of some matters concerning the appeal.
- III. By letter dated 13 August 2025 the opponent, having requested revocation of the patent, informed the board that it would not attend the oral proceedings.
- IV. By letter of 21 August 2025 the patent proprietor withdrew its approval of the text of the patent as granted and withdrew all outstanding requests, including all auxiliary requests and the request for oral proceedings. In addition, the patent proprietor informed the board that it would not attend the oral proceedings scheduled for 3 September 2025 and indicated that it expected a decision ordering the revocation of the patent without going into the substantive issues.
- V. Oral proceedings were cancelled.

Reasons for the Decision

1. According to Article 113(2) EPC, the EPO shall examine and decide on the European patent only in the text submitted to it or agreed upon by the proprietor of the patent.
2. In view of the patent proprietor's statement in the letter dated 21 August 2025, there is no approved text on the basis of which the board could consider whether a ground for opposition prejudices the maintenance of the patent or whether an amended version of the patent complies with the requirements of the EPC . There is also no ancillary matter remaining that needs to be dealt with by the board in the present appeal case.
3. According to the case law of the boards of appeal, in these circumstances the proceedings are to be terminated by a decision ordering revocation of the patent without assessing issues relating to patentability since the patent proprietor no longer challenges the request for revocation of the opposed patent, and the patent cannot be maintained against the proprietor's will (see decision T 73/84, OJ EPO 1985, 241, and Case Law of the Boards of Appeal of the European Patent Office, 11th edition 2025, III.B.3.3).
4. The decision can therefore be taken without holding oral proceedings.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chairwoman:



I. Aperribay

M. Pregetter

Decision electronically authenticated